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IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

NEHEMIAH ROBINSON, Plaintiff, **v.** **T. CATLETT, et al.,** Defendants.	08-CV-00161-H (BLM) **EX PARTE APPLICATION FOR STAY OF DISCOVERY** Courtroom: 5140 Judge: The Honorable Barbara L. Major

Defendants respectfully request the Court stay discovery in these proceedings until after the Court has ruled on Defendants' pending Motion to Dismiss Plaintiff's First Amended Complaint. This request is based on this application, the supporting declaration of Sylvie P. Snyder, and this Court's file.

Plaintiff Nehemiah Robinson is an inmate currently incarcerated at Calipatria State Prison, Calipatria, California. Plaintiff's First Amended Complaint, brought under 42 U.S.C. § 1983, alleges 16 Defendants violated Plaintiff's First, Eighth and Fourteenth Amendment rights as well as his rights under the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq*. and the Rehabilitation Act, 29 U.S.C. § 794. Specifically, Plaintiff alleges he suffers from severe arthritis of many major joints and diffuse joint disease, along with serious problems with his right knee, which have caused him to have "severe chronic pain" for a "number of years" in the major joints and the right knee. In his four counts, Plaintiff complains he was denied a lower bunk, he was denied use of a cane due to a false report, he was otherwise denied use of a cane, and he was denied pain medication. Defendants filed a motion to dismiss asking this Court to dismiss Plaintiff's First Amended Complaint in its entirety because he does not state a claim against any of the 16 Defendants, or alternatively, to dismiss some claims and several Defendants. [Doc. No. 32.]

On or about September 2, 2008, Defendant's counsel received 16 sets of Plaintiff's "First Set of Interrogatories" separately propounded to all 16 Defendants. Good cause exists to stay this and further discovery. This case could be disposed of completely, or in large part and as to several of the 16 Defendants, when the Court rules on Defendants' pending Motion to Dismiss Plaintiff's First Amended Complaint. Conducting discovery prior to that ruling, therefore, could prove to be unnecessary, at least as to several Defendants, and at least to some causes of action. Staying discovery until after the Court rules on Defendants' Motion to Dismiss Plaintiff's First Amended Complaint would keep the parties from expending time and resources on causes of actions which are ultimately dismissed by this Court, and on Defendants who are dismissed from the litigation. Moreover, Defendants' counsel has no reason to believe Plaintiff will be prejudiced by such an order.

ACCORDINGLY, Defendants respectfully request that the Court grant this Application and stay discovery in this case until after the Court has made a final ruling on Defendants' pending Motion to Dismiss Plaintiff's First Amended Complaint.

Dated: September 10, 2008

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of the State of California

DAVID S. CHANEY
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ROCHELLE C. EAST
Senior Assistant Attorney General

MICHELLE DES JARDINS
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s/ Sylvie P. Snyder

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DECLARATION OF SERVICE BY FACSIMILE AND MAIL

Case Name: **Nehemiah Robinson v. T. Catlett, et al.**

No.: **08-CV-00161-H (BLM)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business. My facsimile machine telephone number is (619) 645-2191.

On September 10, 2008 at 2:19 PM., I served the attached **EX PARTE APPLICATION FOR STAY OF DISCOVERY; DECLARATION OF SYLVIE P. SNYDER IN SUPPORT OF EX PARTE APPLICATION FOR STAY OF DISCOVERY; and ORDER STAYING DISCOVERY** by transmitting a true copy by facsimile machine, pursuant to California Rules of Court, rule 2.306. The facsimile machine I used complied with Rule 2.306, and no error was reported by the machine. Pursuant to rule 2.306(g)(4), I caused the machine to print a record of the transmission, a copy of which is attached to this declaration. In addition, I placed a true copy thereof enclosed in a sealed envelope with postage thereof fully prepaid, in the internal mail system of the Office of the Attorney General, addressed as follows:

Calipatria State Prison
Irma Moreno
P.O. Box 5001
Calipatria, CA 92233-5001
(To personally serve on Nehemiah Robinson CDCR# J-71342)

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 10, 2008, at San Diego, California.

Laura Ruiz	Laura Ruiz
Declarant	Signature

80280965.wpd